

**BEFORE THE SECRETARY OF STATE
STATE OF COLORADO**

CASE NO. OS 2008-0033

AGENCY DECISION

**IN THE MATTER OF THE COMPLAINT FILED BY DEBBIE ROSE REGARDING
ALLEGED CAMPAIGN AND POLITICAL FINANCE VIOLATIONS BY JOHN B.
CORDOVA, SR., POSITIVE PEOPLE FOR COMMISSIONER CORDOVA, AND
BUILDING PUEBLO'S FUTURE.**

This matter is before Administrative Law Judge (ALJ) Robert Spencer upon a complaint by Debbie Rose (Rose) that John B. Cordova, Sr. (Cordova), Positive People for Commissioner Cordova (PPCC), and Building Pueblo's Future (BPF) violated fair campaign finance and practice laws in a variety of ways.

The Secretary of State received Rose's complaint September 29, 2008. Pursuant to Colo. Const. art. XXVIII, §9, the Secretary forwarded the complaint to the Office of Administrative Courts (OAC) for hearing. Rose filed an amended complaint October 23, 2008, and subsequently moved to dismiss certain individual respondents named in the original complaint. Hearing upon the amended complaint was held at the OAC March 18, 2009. John S. Zakhem, Esq. and Erik R. Groves, Esq. of Zakhem Atherton, LLC, represented complainant Rose. Patrick K. Avalos, Esq., represented respondents Cordova, PPCC and BPF.

Background and Issues

Cordova was elected Pueblo County Commissioner in the 2008 general election. Rose alleges in five counts that during Cordova's campaign, his candidate committee (PPCC), and an affiliated political committee (BPF), violated provisions of Colorado law regulating political campaign financing. Specifically, in Count I, Rose alleges that PPCC received corporate contributions in violation of Colo. Const. art. XXVIII, §3(4)(a). In Count II, she alleges that PPCC failed to identify the names and addresses of individuals making in-kind donations as required by §1-45-108(1)(a)(I), C.R.S. of the Colorado Fair Campaign Practices Act. In Count III, she alleges that BPF violated Colo. Const. art. XXVIII, §3(5) by accepting individual contributions in excess of \$525. In Count IV, she alleges that PPCC violated Colo. Const. art. XXVIII, §§2(5)(a)(II) and 3(4)(a) by arranging with BPF for BPF to accept corporate contributions for the benefit of Cordova and his campaign. Finally, in Count V, Rose alleges that BPF acted as a conduit between corporate donors and PPCC by collecting contributions on Cordova's behalf and funneling those contributions directly to PPCC, in violation of Colo. Const. art. XXVIII, §3(7). Rose asks the ALJ to impose substantial fines against Cordova, PPCC and BPF for these violations.

On March 3, 2009, Rose filed a motion for summary judgment as to all five counts. Respondents filed a response March 17, 2009 and the matter was taken up the morning of hearing on March 18, 2009. The ALJ granted summary judgment as to Counts I and III, but denied summary judgment as to the remaining counts. Hearing then proceeded as to the remaining counts. For the reasons explained below, the ALJ finds that PPCC violated the law as alleged in Count I, but not II or IV; and that BPF violated the law as alleged in Count III, but not Count V.

Standard Applicable to Motions for Summary Judgment

Summary judgment is proper when the pleadings, affidavits, depositions, or admissions show that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of law. C.R.C.P. 56(c). Summary judgment is a drastic remedy and should be granted only if it has been clearly established that the moving party is entitled to judgment as a matter of law. *Clementi v. Nationwide Mut. Fire Ins. Co.*, 16 P.3d 223 (Colo. 2001). The burden of establishing the nonexistence of a genuine issue of material fact is on the moving party. *Continental Airlines, Inc. v. Keenan*, 731 P.2d 708 (Colo. 1987); *Schultz v. Wells*, 13 P.3d 846 (Colo. App. 2000). The nonmoving party is entitled to the benefit of all favorable inferences that may reasonably be drawn from the undisputed facts, and all doubts must be resolved against the moving party. *Clementi, supra*; *Peterson v. Halsted*, 829 P.2d 373 (Colo. 1992). The purpose of summary judgment is to save the time and expense of trial when, as a matter of law, based upon the undisputed facts, one party could not prevail. *Peterson v. Halsted, supra*; *DuBois v. Myers*, 684 P.2d 940 (Colo. App. 1984).

Applying this standard, the ALJ was satisfied by the depositions and other exhibits accompanying Rose's motion for summary judgment that PPCC had accepted corporate contributions, as alleged in Count I, and that BPF had accepted contributions in excess of \$525, as alleged in Count III. Respondents did not deny those allegations. There being no genuine issue of material fact as to those allegations, summary judgment was appropriate and was granted as to Counts I and III.

Liability for the allegations in Counts II, IV and V, however, was less clear and appeared to involve disputed issues of fact. The ALJ therefore denied summary judgment as to those counts, and the matter proceeded to hearing.

Findings of Fact

Identification of the Parties

1. Cordova was appointed Pueblo County Commissioner in October 2007 to fill a vacant commission seat. He was re-elected in 2008 following a contested election in which Rose was his political opponent. Cordova is a Democrat, Rose a Republican.

2. PPCC is Cordova's candidate committee, as that term is defined in Colo. Const. art. XXVIII, §2(3). It was initially registered with the Secretary of State January 30, 2008 under the name Cordova for Commissioner. An amended registration was

filed April 14, 2008 changing the name to Positive People for Commissioner Cordova. Lynn Pigott is PPCC's registered agent and treasurer.

3. BPF is a political committee as that term is defined in Colo. Const. art. XXVIII, §2(12)(a). It was registered May 15, 2008 with Sylvia Fransua as its registered agent and treasurer. According to its registration statement, BPF's purpose was to "Support County Candidates Working for the Betterment of Pueblo."

Facts Found Upon Summary Judgment - Counts I and III

Corporate Contributions Accepted by PPCC

4. There is no genuine issue of material fact as to the following matters underlying Counts I and III. These findings are supported by the depositions and documents accompanying Rose's motion for summary judgment

a. Between April 10, 2008 and July 17, 2008, PPCC accepted five corporate contributions in the total amount of \$1,275.

b. As a candidate committee, PPCC is prohibited by law from accepting corporate contributions.

c. PPCC ultimately returned all the corporate contributions to the donors. PPCC's finance report for these returned donations bears the notation, "cannot accept from corporation."¹

d. The donors, amounts, and dates received and returned were:

Donor	Amount	Date Received	Date Returned
JMA Nacho's Inc.	\$500	4/10/08	6/17/08
H.W. Houston Construction Co.	\$300	6/09/08	10/01/08
Pueblo Chamber of Commerce	\$25 ²	6/07/08	10/06/08
Pueblo Chamber of Commerce	\$100	6/13/08	10/06/08
Transit Mix of Pueblo, Inc.	\$250	6/13/08	10/07/08
Aguilar Barber and Styling, Inc	\$100	7/17/08	9/22/08

Excess Contributions Accepted by BPF

e. Between May 15, 2008 and June 7, 2008, BPF accepted \$7,725 in corporate contributions for the John B. Cordova Golf Tournament.

f. A political committee is not prohibited by law from accepting

¹ PPCC's contribution reports indicate it accepted two other corporate contributions that it returned, one from Colorado Fire Sprinkler, Inc. and one from Jordan Residential & Vocational Sys., Inc. Exhibit 2, p. 39. However, Complainant did not charge these contributions.

² This was a gift basket identified as a non-monetary contribution.

corporate contributions.

g. The maximum allowable contribution in 2008 was \$525. Four of the contributions exceeded \$525, for a total excess contribution of \$850.³

h. BPF ultimately returned the excess amount of these donations. Its finance report explains the reasons for return as, “over allowed amount.”

i. The donors, dates and amounts of the excess donations were:

Donor	Amount	Date Received	Date Returned	Excess Amt
DLB Group	\$800	5/15/08	10/09/08	\$275
Short Elliott Hendricks	\$800	5/22/08	10/09/08	\$275
GCC Rio Grande	\$800	6/05/08	10/09/08	\$275
Upward Solutions	\$575	6/07/08	10/09/08	\$50

Facts Proven at the Hearing - Counts II, IV, V

PPCC and the John B. Cordova Golf Tournament

5. Early in his campaign, Cordova met with other members of his campaign committee to discuss fund raising efforts. His friend, Sylvia Fransua, was involved with PPCC and attended some of these meetings.

6. Golf tournaments are a recognized fund raising method in the Pueblo community. Businesses often participate in the golf tournament to gain the advertising opportunity of “hole sponsorships,” and to network with other people important to the success of their business.

7. Early in 2008, PPCC began to organize a golf tournament as a fund-raiser for Cordova. On February 13, 2008, PPCC purchased flyers advertising the golf tournament as the “John B. Cordova Golf Tournament.” Exhibit 36.

8. The flyers directed participants to make checks payable to “John B. Cordova for Commissioner,” which was PPCC’s name at the time.

9 The flyers named Sylvia Fransua as a point of contact for the tournament.

10. PPCC paid all the expenses of the golf tournament.

11. Cordova personally solicited most of the golf tournament’s corporate participants. In a typical solicitation letter, Cordova invited the company’s “participation in my Golf Tournament,” reminded the company that he was “running for election as County Commissioner because I am passionate about economic growth in Pueblo County and believe County government should do everything in its power to support

³ BPF’s contribution reports indicate a fifth excess donation was made by Cliff Brice Petroleum, Inc. in the amount of \$800. However, evidence presented at the hearing suggests this entry was in error, and that the actual amount of the contribution was \$500.

local business,” and ended with a promise that, “For a \$500 contribution, your company will receive top recognition as an exclusive hole sponsor.” Exhibit 39.

BPF and the Corporate Contributions

12. BPF was created to receive corporate contributions generated by the golf tournament and pass them along to PPCC. The following facts support this finding.

13. PPCC and its agents were aware that PPCC, as a candidate committee, was prohibited by law from accepting corporate contributions.

14. Cordova and Fransua therefore had discussions about setting up a political committee, which would not be prohibited from accepting corporate donations.

15. On May 15, 2008, Fransua registered BPF with the Secretary of State, and BPF immediately began to accept corporate contributions for Cordova’s golf tournament. From May 15, 2008 through June 7, 2008, the day of the golf tournament, BPF collected a total of \$7,725 in corporate contributions, as follows:

Date	Donor	Contribution
5/15/08	Beltramo & Sons, Inc.	\$500
5/15/08	Houston Construction	\$500 ⁴
5/15/08	DMJM Harris	\$400
5/15/08	Cliff Brice Petroleum	\$500 ⁵
5/15/08	DLB Group	\$800
5/21/08	Abel Engineering Prof., Inc.	\$250
5/21/08	Abel Consulting Svcs., Inc.	\$250
5/21/08	Coldwell Banker	\$500
5/21/08	Hilvitz-Hanson, Inc.	\$100
5/22/08	Short, Elliott, Hendrickson, Inc.	\$800
6/05/08	GCC Rio Grande, Inc.	\$800
6/05/08	Cortez Construction	\$250
6/05/08	Keller Williams Realty	\$500
6/04/08	Proal-Red Creek Ranch	\$500
6/06/08	Montgomery & Steward Funeral Home	\$500
6/07/08	Upward Solutions	\$575
Total Corporate Contributions		\$7,725

⁴ The donation appears to have originally been written as \$800, then corrected to \$500. Exhibit 5, p. 3.

⁵ The donation is written as \$800, but testimony at the hearing established the donation as \$500.

16. All corporate checks were paid to BPF. Checks from individual golf tournament participants were paid to PPCC.

17. In one case, a corporate donor made its check payable to PPCC, but was redirected by a PPCC agent to make the check payable to BPF instead.

18. Two of the corporations listed, Coldwell Banker and Keller Williams Realty, are limited liability companies (LLC's). BPF accepted the LLC contributions without obtaining written affirmation from the LLC's that the LLC's were authorized by law to make the contributions and stating the names and addresses of all the individual members of the LLC's. An LLC is exempt from the ban on corporate contributions only if such affirmations are obtained by the donee. See §1-45-103.7(5)(d)(I), C.R.S.

19. BPF was not involved in any other fund raising activity other than the John B. Cordova Golf Tournament.

20. On June 16, 2008, nine days after the golf tournament was held, BPF contributed \$8,000 to PPCC. This amount represents the entirety of the corporate contributions accepted by BPF.⁶

21. Although Cordova testified that the purpose of BPF was to support all Democratic candidates running for office in Pueblo and not just him, no other Democratic candidate was involved in a contested election and Cordova was the only candidate to ever receive any support from BPF.

22. In summary, the ALJ finds from the foregoing evidence that PPCC and its agents created BPF for the purpose of collecting contributions from corporate golf tournament participants, with the intention that BPF pass that money on to PPCC after the golf tournament was over.

Disclosure of Names and Addresses of Donors

23. In addition to monetary contributions, PPCC accepted a number of non-monetary contributions, including five gift certificates from restaurants, each of \$20 or more. In each case, PPCC reported the donor as "Manager" followed by the restaurant's name. The address of the restaurant was also given. No name or address of any individual was listed.

24. The evidence does not establish whether the actual donor of the gift certificate in each (or any) case was the restaurant itself, the manager personally, or a third person who paid the restaurant to issue the certificate.

Discussion and Conclusions of Law

Colorado's Campaign Finance Laws

The primary campaign finance law in Colorado is Article XXVIII of the Colorado Constitution, which was approved by the people of Colorado in 2002. Article XXVIII

⁶ Due to errors in recording the amount of the contributions, as noted in footnotes 4 and 5, BPF actually paid PPCC \$275 more than it received in corporate contributions.

imposes contribution limits, encourages voluntary spending limits, imposes reporting and disclosure requirements, and vests enforcement authority in the Secretary of State. Colorado also has statutory campaign finance law, known as the Fair Campaign Practices Act (FCPA), §§1-45-101 to 118, C.R.S., which was originally enacted in 1971, repealed and reenacted by initiative in 1996, substantially amended in 2000, and again substantially revised by initiative in 2002 as the result of the adoption of Article XXVIII. The Secretary of State, pursuant to regulations published at 8 CCR 1505-6, further regulates campaign finance practices.

Count I – PPCC Unlawfully Accepted Corporate Contributions

Section 3(4) of Article XXVIII makes it “unlawful for a corporation ... to make contributions to a candidate committee”⁷ Logically, this provision must also be construed to prohibit a candidate committee from knowingly accepting a contribution from a corporation. Constitutional provisions should not be interpreted to yield absurd results. A statutory interpretation leading to an illogical or absurd result will not be followed. *Colo. Water Conservation Bd. v. Upper Gunnison River Water Conservancy Dist.*, 109 P.3d 585, 593 (Colo. 2005); *Frazier v. People*, 90 P.3d 807, 811 (Colo. 2004).⁸ It would be illogical to prohibit a corporation from giving a contribution to a candidate committee, but not prohibit a candidate committee from accepting a contribution from a corporation.

If a political committee inadvertently accepts a contribution from a corporation, it has 30 days to return the unlawful contribution to the donor. See Secretary of State Rule 4.8, 8 CCR 1505-6, “Any contributions received in excess of contribution limits shall be returned to the contributor within thirty (30) days.”

The undisputed facts disclose that PPCC accepted \$1,275 from five corporate donors. Although all were ultimately returned to the donor, none were returned within 30 days, as required by Secretary of State rule. Therefore, as noted above, summary judgment was granted to complainant as to this count.

Count II – Did PPCC Fail to Disclose Names and Addresses?

FCPA § 1-45-108(1)(a)(I), C.R.S. states that, “All ... political committees ... shall report to the appropriate officer their contributions received, including the *name and address of each person* who has contributed twenty dollars or more.” *Italics added.* A “person” includes “any natural person, partnership ... corporation ... or other organization or group of persons.” See Art. XXVIII, § 2(11) and § 1-48-103(13), C.R.S.

Rose alleges that PPCC violated § 1-45-108(1)(a)(I) by failing to disclose the names and addresses of the “persons” who donated the restaurant gift certificates. Whether this allegation is valid or not depends entirely upon proof that the donors of the

⁷ By rule, the Secretary of State has made it clear that this prohibition applies to local elections, except in home rule counties and cities, which Pueblo is not. 8 CCR 1505-6, Rule 7.1.

⁸ Rules of statutory construction may be applied when interpreting citizen-initiated constitutional measures. *Bickel v. City of Boulder*, 885 P.2d 215, 228 n.10 (Colo. 1994).

certificates were individuals, rather than the businesses themselves. The names and addresses of the restaurants were disclosed, so if the business was the donor, then the disclosure was valid.⁹

Hearings of fair campaign law violations are conducted according to the provisions of the Administrative Procedure Act (APA), §24-4-105, C.R.S. Art. XXVIII, §9(1)(f). APA §24-4-105(7) provides that the proponent of an order shall have the burden of proof. Here, Rose is the proponent of an order finding PPCC guilty of violating the law. Therefore, Rose bears the burden of proof. In the absence of proof that the gift certificates were donated by individuals rather than the identified businesses themselves, this allegation cannot be sustained.¹⁰

Count III – BPF Unlawfully Accepted Excess Contributions

Art. XXVIII, §3(5) states that, “No political committee shall accept aggregate contributions ... from any person in excess of five hundred dollars per house of representatives election cycle.” As noted above, “person” includes a corporation. Art. XXVIII, §2(11). Art. XXVIII, §3(13) contains an adjustment for fluctuations in the Consumer Price Index, as determined by the Secretary of State. Currently, the adjusted limit is \$525. See Secretary of State Rule 12.7. If a political committee accepts a contribution in excess of the limit, it must return the excess to the donor within 30 days. See Secretary of State Rule 4.8.

It is undisputed that BPF accepted four contributions in excess of \$525, for a total excess of \$850. Although all excess donations were ultimately returned, none were returned within 30 days as required by the rule. There being no genuine issue of material fact as to this allegation, summary judgment was granted.

Count V – Did BPF Unlawfully Act as a Conduit for Corporate Contributions?

In the next two counts, Count IV and Count V, Rose alleges that BPF illegally acted as a “conduit” to funnel funds from corporate donors to PPCC in violation of Art. XXVIII, §3(7) (Count V), and that in accepting those donations from BPF, PPCC illegally received corporate contributions in violation of §3(4)(a) (Count IV). Because these allegations are interrelated and are in a sense opposite sides of the same coin, the ALJ will address Count V first.

Art. XXVIII, §3(7) prohibits any person from acting “as a conduit for a contribution to a candidate committee.” Section 2(4), in turn, defines a “conduit” as:

[A] person who transmits contributions from more than one person directly to a candidate committee. “Conduit” does not include the contributor’s immediate family members, the candidate or

⁹ If any of the businesses were corporations, then an unlawful corporate contribution was made. However, that violation was not charged.

¹⁰ Secretary of State Rule 3.9.b prohibits a donee from retaining any donation “in excess of twenty dollars (\$20)” if the identity of the contributor was unknown. Though raised in argument, this violation was not charged.

campaign treasurer of the candidate committee receiving the contribution, a volunteer fundraiser hosting an event for a candidate committee, or a professional fundraiser if the fundraiser is compensated at the usual and customary rate.

Although this provision has not been previously interpreted by any Colorado court, at first blush it would appear broad enough to support the interpretation urged by Rose – that by accepting corporate contributions with the intent to convey the contribution on to PPCC, BPF acted as a conduit for these contributions. The ALJ, however, must take into consideration the directives of FCPA §§1-45-103.7(1) and (2), C.R.S., which read as follows:

(1) Nothing in article XXVIII of the state constitution or this article [FCPA] shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(2) A political committee may receive and accept moneys contributed to such committee by a corporation or labor organization pursuant to subsection (1) of this section *for disbursement to a candidate committee* or political party without depositing such moneys in an account separate from the account required to be established for the receipt and acceptance of all contributions

Italics added.

The plain meaning of these sections, and particularly the italicized language, is clear. Art. XXVIII and the FCPA are not to be construed to prevent a political committee from accepting contributions from a corporation, even when the contribution is earmarked “for disbursement to a candidate committee.” Because the definition of a political committee includes a committee established to support of a single candidate (see §2(12)(a)), §1-45-103.7(2) must be interpreted to permit a political committee to pass corporate money through to a single candidate. Therefore, the definition of “conduit” cannot be broadly interpreted to prevent such conduct.¹¹

Given the language of §§1-45-103.7(1) and (2), the fact that BPF was set up for the explicit purpose of conveying corporate contributions to PPCC would not seem to matter. Nothing in the language of these sections limits their effect to only those political committees that function independently of the candidate. In interpreting statutory language, the ALJ initially relies on the language of the statute, giving words and phrases their plain and ordinary meaning. *Hall v. Walter*, 969 P.2d 224, 229 (Colo. 1998). In construing statutes, a court’s primary purpose is to give full effect to the intent of the General Assembly. If a court can give effect to the ordinary meaning of the words

¹¹ Although §1-45-103.7(2) arguably conflicts with the prohibition of conduits found in Art. XXVIII, §3(7), statutes are presumed to be constitutional and a party challenging the statute bears the burden of proving it to be unconstitutional beyond a reasonable doubt. *Firelock v. District Court*, 776 P.2d 1090, 1097 (Colo. 1989). The definition of conduit in §2(4) is not so clear that it precludes beyond a reasonable doubt the conduct described by § 1-45-103.7(2)

adopted by a legislative body, the statute should be construed as written since it may be presumed that the General Assembly meant what it clearly said. *Colo. Water Conservation Bd. v. Upper Gunnison River Water Conservancy Dist.*, 109 P.3d 585, 593 (Colo. 2005); *Hall v. Walter*, 969 P.2d 224, 229 (Colo. 1998).¹² As written, nothing in the plain language of the statute requires total independence between the candidate and the political committee making the donation.

Though this result may appear to fly in the face of the conduit rule of §3(7), it is mitigated by the fact that corporate contributions to political committees and the contributions by those committees to candidates must still be disclosed, as they were in this case. This lends much-needed transparency to the process. Furthermore, the opportunity for a political committee to pass-through a large amount of bundled corporate contributions is generally limited to local elections because of the contribution limits that apply to political committees in most statewide elections. See Art. XXVIII, §3(1). In the legislature's judgment, the risk of corporate influence over local elections may not present the same concern that it does in state-wide elections.

Regardless, the plain language of §§1-45-103.7(1) and (2) is clear. It permits a political committee to accept corporate donations earmarked for the candidate it supports. The ALJ therefore must conclude that BPF's conduct in accepting and passing corporate contributions on to PPCC does not violate Art. XXVIII.

Count IV – Did PPCC Unlawfully Accept Corporate Contributions Through BPF?

Rose alleges that PPCC violated Art. XXVIII, §3(4)(a) by accepting corporate contributions through BPF. For the reasons discussed with regard to Count V, the ALJ must also reject this claim.

Both BPF and PPCC reported the \$8,000 contribution BPF made to PPCC, therefore there was no underreporting of the contribution. PPCC runs afoul of the law only if its acceptance of the money amounts to the acceptance of a corporate contribution. However, as already noted, §§1-45-103.7(1) and (2) specifically authorize a political committee to pass corporate contributions through to a candidate committee. That being the case, PPCC cannot be said to have violated the law by accepting a contribution specifically permitted by the law.

Summary

PPCC violated Art. XXVIII, §3(4) by directly accepting corporate contributions and not returning them within 30 days (Count I), but not by accepting corporate contributions received by BPF (Count IV). BPF violated Art. XXVII, §3(5) by accepting

¹² The concept of "coordination and control," first discussed by the Supreme Court in *Buckley v. Valeo*, 424 U.S. 1 (1976), is a response to concern that political donors might avoid contribution limits by the expedient of paying directly for media advertisements or other portions of a candidate's campaign activities. The Supreme Court held that *expenditures* "controlled by or coordinated with" the candidate are legitimately treated as contributions subject to limits. *Id.*, pp. 46-7. Because the present case does not involve expenditures, the issue of coordination and control as defined by *Buckley* is not applicable.

individual contributions in excess of \$525 (Count III), but did not violate §3(7) by acting as a conduit for corporate contributions (Count V). The evidence is not sufficient to conclude that PPCC violated §1-45-108(1)(a)(I), C.R.S. by failing to disclose the names and addresses of individual donors (Count II).

Sanction – PPCC

Art. XXVIII, § 9(2)(a) states that if the ALJ finds a violation has occurred, the ALJ “shall include any appropriate order, sanction, or relief authorized by this article.” Art. XXVIII, §10(1), in turn, states that:

Any person who violates any provision of this article relating to contribution or voluntary spending limits shall be subject to a civil penalty of at least double and up to five times the amount contributed, received, or spent in violation of the applicable provision of this article. Candidates shall be personally liable for penalties imposed upon the candidate’s committee.

In this case, PPCC violated the contribution limits described in Art. XXVIII, §3(4) by accepting a total of \$1,275 in contributions directly from five corporate donors, and not returning those donations within 30 days.

In deciding the appropriate multiplier within that range, the ALJ considers the fact that PPCC was aware of the prohibition against accepting corporate contributions, but yet delayed returning the contributions received. This appears to be a rather casual attitude toward the requirements of the law. On the other hand, PPCC did ultimately return the improper donations, and there is no evidence any of the individuals associated with PPCC have been involved in previous violations. Under the circumstances, a multiplier of three is appropriate, resulting in a total civil penalty against PPCC of \$3,825 ($\$1,275 \times 3$).

Sanction – BPF

BPF violated the contribution limits of Art. XXVIII, §3(5) by accepting excess contributions of \$850 and not returning those contributions within 30 days. For the same reasons discussed above, the ALJ finds a multiplier of three appropriate, resulting in a total civil penalty against BPF of \$2,550 ($\850×3).

Agency Decision

PPCC violated Art. XXVIII, § 3(4) by accepting \$1,275 in corporate contributions. For these violations a civil penalty of \$3,825 is imposed.

BPF violated Art. XXVII, §3(7) by accepting donations \$850 in excess of the limits of §3(5). For these violations a civil penalty of \$2,550 is imposed.

The civil penalties shall be paid to the Secretary of State within 45 days of the date of service of this decision.

Done and Signed

March 31, 2009

ROBERT N. SPENCER
Administrative Law Judge

Digitally recorded CR #1

Exhibits admitted:

Stipulated exhibits: 1-38

Complainant's additional exhibits: 39, 40

Respondents' additional exhibits: none

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the above **AGENCY DECISION** by placing same in the U.S. Mail, postage prepaid, at Denver, Colorado to:

Patrick K. Avalos, Esq.
132 W. "B" St., Ste. 280
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John S. Zakhem, Esq.
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and to:

William A. Hobbs
Deputy Secretary of State
Department of State
1700 Broadway, Suite 270
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on this ____ day of March 2009.

Court Clerk